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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

(San Francisco Division)

TASH HEPTING, et al., , Plaintiffs, v. AT&T CORP., et al., Defendants.	Case No. C-06-0672-VRW **DECLARATION OF BARRY R. HIMMELSTEIN IN SUPPORT OF *ROE* PLAINTIFFS' RESPONSE TO ADMINISTRATIVE MOTION FOR DESIGNATION OF INTERIM CLASS COUNSEL**
BENSON B. ROE, and PAUL GOLTZ, on behalf of themselves and all others similarly situated, Plaintiffs, v. AT&T CORP., a New York corporation; AT&T INC., a Delaware corporation; SBC LONG DISTANCE, LLC, a Delaware limited liability company dba AT&T Long Distance; PACIFIC BELL TELEPHONE COMPANY, a California corporation dba AT&T California; AT&T COMMUNICATIONS OF CALIFORNIA, INC., a California Corporation, and DOES 1-100, Defendants.	Case No. C-06-03467-VRW Judge: Hon. Vaughn R. Walker

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I, Barry R. Himmelstein, declare and state:

1. I am a member in good standing of the California State Bar, and a partner in the law firm of Lieff, Cabraser, Heimann & Bernstein, LLP ("LCHB"), counsel for plaintiffs in this action. I have personal knowledge of the matters set forth herein, and could and would testify competently thereto if called upon to do so.

2. With 69 attorneys and 137 staff members, LCHB is one of the oldest, largest, most respected, and most successful law firms in the country specializing in representing plaintiffs in class actions, and brings to the table a wealth of experience in similar litigation. LCHB has been repeatedly recognized as one of the top plaintiffs' law firms in the country by both The National Law Journal and The American Lawyer. See D. Hechler, *The Plaintiffs' Hot List*, National Law Journal (July 26, 2004), at S-8; A. Frankel, *Sweet Sixteen*, Litigation 2004, Supplement to The American Lawyer & Corporate Counsel (Dec. 2004), at 8-10.

3. Attached hereto as Exhibit A is a copy of LCHB's firm resume, which describes some of the firm's experience in class action and other complex litigation, and gives biographical information about the attorneys at the firm. As set forth therein, LCHB has extensive experience in the prosecution of class actions, including consumer fraud cases and civil rights cases.

4. LCHB attorneys representing plaintiffs in this matter include James M. Finberg, Barry R. Himmelstein, Michael W. Sobol, and Eric B. Fastiff.

5. In 2005, Mr. Finberg served as president of the Bar Association of San Francisco. From 2000 to 2001, he served as co-chair of the delegation of lawyer representatives from the Northern District of California to the Ninth Circuit Judicial Conference. From 1997-1998, he served as co-chair of the Lawyers Committee for Civil Rights of the San Francisco Bay Area. Mr. Finberg graduated from Brown University and the University of Chicago Law School, where he was Executive Editor of the *Law Review*.

6. Mr. Finberg served as lead counsel, or co-lead counsel, for plaintiff classes in the following cases, among many others: In Re: Farmers Insurance Exchange Claims Representatives' Overtime Pay Litigation, MDL Docket No. 1439 (D.Oregon). ($52.5 million

judgment entered in 2005 after wage/hour class and collective action trial); Butler v. Home Depot, No. C-94-4335-SI (N.D. Cal.) (settlement of $87.5 million, plus comprehensive injunctive relief, in gender discrimination case in 1998); Frank v. United Airlines, No. C-92-0692-MJJ (N.D. Cal.) ($36.5 million gender discrimination settlement in 2004); In re California Micro Devices Securities Litigation, C-94-2817-VRW (N.D. Cal.) ($26 million in settlements -- approximately 100% of losses); In re Network Associates, Inc. Securities Litigation, C-99-1729-WHA (N.D. Cal.) ($30 million settlement in 2001); In re Mediavision Technology Securities Litigation, C-94-1015-EFL (N.D. Cal.) (settlements and judgments totaling $218 million).

7. Mr. Sobol is the chair of LCHB's consumer practice group. Mr. Sobol is a 1989 graduate of Boston University School of Law, and has been a partner with LCHB since 1999. He has served as plaintiffs' class counsel in numerous nationwide consumer class action cases. Recently, Mr. Sobol successfully litigated a class action against AT&T Wireless Communications, Inc., wherein final approval was granted for a settlement that guarantees delivery to the class of $40 million in benefits, including cash up to that amount at the option of each class member. (LCHB had been prosecuting a case in federal court against AT&T Wireless when a state court settlement had been announced. LCHB objected to the state court settlement as inadequate because it would have only delivered $1.5 million to the class. Thereafter, LCHB negotiated the settlement providing $40 million to the class.) During the last two years, Mr. Sobol has also served as class counsel for nationwide classes bringing claims under the federal Equal Credit Opportunity Act alleging discriminatory lending in the automobile financing industry. Settlements in those cases have resulted in industry-wide structural changes to automobile financing practices and the settlements provide for refinancing of $2 billion in outstanding loans and other benefits valued in excess of $125 million. In parallel litigation brought by the California Attorney General, Mr. Sobol served as class counsel in settlements with the leading title insurance companies in California, resulting in historic industry-wide changes to the practice of providing escrow services in real estate closings. These settlements brought a total of $50 million in restitution to California consumers, including cash payments.

8. I graduated *magna cum laude* from the University of California, Hastings College of the Law, in 1991. Following graduation, I clerked for the Hon. Charles A. Legge (Ret.) of the Northern District of California, before joining the San Francisco office of Morrison & Foerster, LLP, in 1993. I joined LCHB in 1997, and have been a partner in LCHB since 1999. During my tenure at LCHB, I have specialized in consumer fraud litigation.

9. I have personally litigated and settled class action cases totaling over $2 billion. I was appointed co-lead counsel in the groundbreaking *Synthroid Marketing Litigation*, MDL Docket No. 1182, in which the manufacturer of a prescription thyroid medication was accused of suppressing publication of an unfavorable study it had sponsored. The case eventually settled for $134 million. See *In re Synthroid Marketing Litig*., 264 F.3d 712 (7th Cir. 2001). Other successes include *In re American Family Enterprises*, MDL Docket No. 1235, 256 B.R. 377 (D. N.J. 2000) (asserting consumer fraud claims; settlement gave defrauded claimants 90% refunds, despite bankruptcy of principal defendant); and *Medimatch, Inc. v. Lucent Technologies, Inc.*, 120 F. Supp. 2d 842 (N.D. Cal. 2000) (national litigation class later certified in unpublished opinion).

10. For the last several years, I have been involved in litigation arising out of California's energy crisis of 2000-01. I was appointed co-lead counsel in *Natural Gas Antitrust Cases I-IV*, California Judicial Council Coordination Proceeding Nos. 4221, *et al*., which settled in November 2003 as to the El Paso Corporation for over $1.5 billion. At the time it was negotiated, it was the largest antitrust settlement in United States history, and remains the largest for either a single defendant or the residents of a single state. In approving the settlement and awarding attorneys' fees, the Coordination Trial Judge, the Hon. J. Richard Haden, noted that LCHB "effectively handled one-half of the litigation against the El Paso Defendants." I argued all of the key motions in the case, and was principally responsible for the lengthy and difficult settlement negotiations. Other recent successes in energy litigation include a $417 million settlement with The Williams Companies, Inc., approved in June 2004, in which I was appointed co-lead counsel for the settlement class; a $206 million settlement with Duke Energy Trading and Marketing, L.L.C.; and a $460 million settlement with Reliant Energy, Inc.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of June, 2006, San Francisco, California.

/s/ Barry R. Himmelstein
Barry R. Himmelstein